

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:

EASTERN LIVESTOCK CO., LLC

CASE NO. 10-93904

CHAPTER 11

DEBTOR

**OBJECTION TO THE TRUSTEE'S PURCHASE MONEY
CLAIMS REPORT, MOTION TO TRANSFER FUNDS AND
NOTICE OF RELEASE OF PROCEEDS FROM ACCOUNT**

Come Bluegrass Stockyards, LLC, Bluegrass Stockyards East, LLC, Bluegrass Stockyards of Campbellsville, LLC, Bluegrass Stockyards of Richmond, LLC, Bluegrass South Livestock Market, LLC, Bluegrass-Maysville Stockyards, LLC, East Tennessee Livestock Center, Inc., Piedmont Livestock, Inc., and Southeast Livestock Exchange, LLC (collectively, the Parties), by counsel, and hereby object (the "Objection") to the Trustee's Purchase Money Claims Report, Motion to Transfer Funds and Notice of Release of Proceeds from Account (the "Motion") [ECF No. 501]. In support of their Objection, the Parties respectfully state as follows:

1. The Parties are currently investigating the funds generally described in Exhibit A to the Motion, but believe that they may have ownership claims in certain of the proceeds listed thereon, and/or in additional proceeds that may be collected by the Trustee in the future pursuant to the Order Granting Trustee's Emergency Motion Regarding Payments on Debtor's Cattle Sales [ECF No. 234] (the "Payment Order"). In particular, Piedmont Livestock, Inc. believes that it may have a claim to a portion of the funds listed on Exhibit A to the Motion as being paid by Lueken Dairy Farm. Documents relating to these funds are attached hereto as Exhibit 1. The

Parties may also have claims against Fifth Third Bank which could significantly impact Fifth Third's rights in this case.

2. The Parties are filing this Objection out of an abundance of caution. If, by the Motion, Eastern Livestock Co., LLC (the "Debtor") is attempting to transfer any funds listed in Exhibit A to the Motion from its Estate's escrow account (the "Account") to its general operating account without this Court first determining such a transfer is warranted (after appropriate discovery and litigation of those claims), then any such transfer is inappropriate.

3. Similarly, if, by the Motion, the Debtor is attempting to obtain approval for any future transfers from the Account to its general operating account, both funds currently in the account and as may be collected in the future pursuant to the Payment Order, without this Court first determining such a transfer is warranted (after appropriate discovery and litigation of those claims), then any such transfer is inappropriate.

4. The Parties are unsure whether failure to file this Objection would constitute a waiver of their right to do so under Paragraph 6 of the Financing Order [ECF No. 400] entered by this Court on March 18, 2011, but believe that it would not. However, in order to eliminate any confusion on that point, the Parties respectfully request that the Court rule that objections to the Motion were not due within seven (7) days. Further, to avoid any future confusion or unintended waivers, and for their future protection, as well as the future protection of others, the Parties ask the Court to rule that any notice requiring a seven (7) day response under Section 6 of the Financing Order must contain in bold caps **"ANY OBJECTIONS TO THE TRANSFER PROPOSED IN THIS NOTICE NOT MADE WITHIN SEVEN (7) DAYS OF RECEIPT ARE WAIVED AND THE TRUSTEE MAY TRANSFER OR USE THE FUNDS AS PROPOSED."**

WHEREFORE, for the reasons set forth above, the Parties request that this Court:

(a) reaffirm that the Trustee may not transfer any funds from the Account absent prior order of the Court, after specific notice, as set forth above, and a hearing on the proposed transfer of funds from the Account; (b) find that no objection to the Motion was required to be filed within seven (7) days of its filing; (c) order that any attempt to transfer funds pursuant to Paragraph 6 of the Financing Order contain in bold caps **“ANY OBJECTIONS TO THE TRANSFER PROPOSED IN THIS NOTICE NOT MADE WITHIN SEVEN (7) DAYS OF RECEIPT ARE WAIVED AND THE TRUSTEE MAY TRANSFER OR USE THE FUNDS AS PROPOSED”**; and (d) grant the Parties such further relief as the Court deems just and proper under the circumstances.

Respectfully submitted,

DELCOTTO LAW GROUP PLLC

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COUNSEL FOR THE PARTIES

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2011, a copy of the foregoing Objection was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on June 17, 2011, a copy of the foregoing Objection was mailed by first-class U.S. mail, postage prepaid and properly addressed, to the following:

Bovine Medical Associates, LLC
1500 Soper Road
Carlisle, KY 40311

Eastern Livestock Co., LLC
135 W. Market Street
New Albany, IN 47150

National Cattlemen's Beef Association
c/o Alice Devine
6031 SW 37th Street
Topeka, KS 66610

/s/ Laura Day DelCotto, Esq.
COUNSEL FOR THE PARTIES

Exhibit 1

Piedmont Livestock, Inc.
PO Box 217
Altamahaw, NC 27202

"Jesus Is Lord Of All"

Invoice

| Date | Invoice # |
|------------|-----------|
| 10/27/2010 | 7529 |

Bill To

Eastern Livestock
135 West Market
New Albany, IN 47150

| Head | Description | Qty/Wt | Price | Amount |
|--------|--|-----------------|--------|-------------|
| 59 | <p>Holst - Avg 858 <i>Del</i></p> <p><i>Jones</i> <i>VA to Evansville IN to</i> <i>Birdseye IN</i></p> <p><i>Lueken Dairy Farm</i></p> <p>CERTIFICATION OF NON-PRODUCER STATUS FOR THE RESELLER Claimed on # <u>59</u> cattle pursuant to 7CFR 1260.116 and 1260.314 DO NOT DEDUCT the \$1.00 per head Beef Promotion Assessment BEEF COUNCIL REGISTERED No. NC-005 Signature <i>[Signature]</i> Date <u>10/27/10</u> ATTEST ALL LIVESTOCK REFERENCED BY THIS DOCUMENT & TRANSFERRED ARE OF US (COUNTRY) ORIGIN.</p> | 50,615 | 0.8568 | 43,366.93 |
| Phone: | 336-584-3676 / 800-334-0819 | Total | | \$43,366.93 |
| Fax: | 336-584-8398 | Payments | | \$0.00 |
| Email: | piedmontcattle@bellsouth.net | Balance | | \$43,366.93 |

[Signature]

